

Message Text

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ACTION DHA-02

INFO OCT-01 AF-08 ISO-00 CIAE-00 DODE-00 PM-04 H-01 INR-07

L-03 NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15 USIA-06

EB-08 AID-05 IGA-02 TRSE-00 OMB-01 IO-13 MCT-01 /086 W

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P R 171518Z MAR 77

FM AMEMBASSY MASERU

TO SECSTATE WASHDC PRIORITY 6824

INFO AMEMBASSY GABORONE

LIMITED OFFICIAL USE SECTION 1 OF 2 MASERU 0349

E.O. 11652: N/A

TAGS: SHUM, LT, PFOR

SUBJECT: FONMIN REACTS NEGATIVELY TO HUMAN RIGHTS PAPER ON LESOTHO

REF: STATE 53199

1. SUMMARY: THE RELEASE BY CONGRESS OF THE PAPER ON FUNDAMENTAL HUMAN RIGHTS HAS PROVOKED A NASTY TURMOIL IN THE GOL. MINISTERS OF FONAFF AND INFORMATION MET WITH AMBASSADOR TO REVIEW THE TEXT IN DETAIL. ANGRY FOREIGN MINISTER MOLAPO DENOUNCED ONE SENTENCE AFTER THE OTHER AS UNJUSTIFIED, UNSUBSTANTIAL, IRRELEVANT, INACCURATE AND AMBIGUOUS. PAPER SEEMS TO HAVE OFFENDED PRIME MINISTER THOUGH TO WHAT DEGREE AND FOR HOW LONG IT IS STILL TOO EARLY TO SAY. GOL EXPECTATIONS OF US ASSISTANCE MAY OUTWEIGH PIQUE BUT AT LEAST FOR IMMEDIATE FUTURE EMBASSY'S RELATIONS WITH GOL HAVE BEEN ADVERSELY AFFECTED AND OUR ACCESS TO THE PM AND THE CABINET MAY HAVE BEEN ERODED (SEE COMMENT PARA 6). END SUMMARY.

BEGIN UNCLASSIFIED:

2. IN LINE WITH PARA 2 REFTL, EMBASSY INFORMED FOREIGN MINISTRY MARCH 11 OF IMPENDING RELEASE OF TEXT OF PAPER ON HUMAN RIGHTS IN LESOTHO. MINISTRY REQUESTED TEXT WHICH WAS MADE AVAILABLE MONDAY, LIMITED OFFICIAL USE

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MARCH 14. IN ABSENCE FONMIN, AMBASSADOR HAD PASSED COPY TO INFORMATION MINISTER LEROTHOLI AT DINNER MARCH 12.

3. ON 14TH, AMBASSADOR MET WITH FOREIGN MINISTER C.D. MOLAPO, JUST RETURNED FROM THREE WEEKS ABSENCE (LOME, CAIRO, ETC.) PRESENT FOR AFTERNOON MEETINGS WERE DCM AND MININFO LEROTHOLI. DISPLAYING OBVIOUS IRRITATION AND DISPLEASURE,

MOLAPO DECLARED HE WANTED TO DISCUSS H.R. PAPER AND THAT HE WAS PREPARED TO SPEND HOURS GOING OVER IT IF NECESSARY. WITH THAT HE PLUNGED INTO DETAILED SENTENCE BY SENTENCE CRITICISM CHARGING IRRELEVANCE, LACK OF JUSTIFICATION, INACCURACY AND AMBIGUITY. SPECIFIC COMMENTS FOLLOW, KEYED TO SECTIONS AND PARAGRAPHS OF PAPER.

A. POLITICAL SITUATION: THE REFERENCE TO LESOTHO AS ENCLAVE AND SENSITIVE TO DEVELOPMENTS IN SA WAS BRANDED AS IRRELEVANT TO THE AIM OF THE PAPER.

LACK OF ANY BACKGROUND OR CLARIFICATION OF REASONS FOR JONATHAN'S SUSPENSION OF THE CONSTITUTION AND PARLIAMENT, NULLIFICATION OF ELECTIONS, ETC., WAS DENOUNCED AS LEAVING IMPRESSION PM ACTED MALICIOUSLY AND WITHOUT CAUSE WHEN, IN FACT, THESE MEASURES WERE FULLY JUSTIFIED BY PRECEDING EVENTS. MOLAPO ALLEGED BCP SIGNED STATEMENT ACKNOWLEDGING INTERFERENCE WITH 1970 ELECTION PROCEDURES. LEROTHOLI SAID WRITER OUGHT TO HAVE PROVIDED SUMMARY OF 1965-70 EVENTS. HE CLAIMED THIS PERIOD WAS MARKED BY OPEN BCP HOSTILITY IN PUBLIC AND IN PARLIAMENT EVEN TO EXTENT OF CALLS FOR DEFIANCE OF GOVT AND THAT BCP DISORDERS LED TO KILLING OF POLICEMAN AT THABA BOSIU. BCP EVEN DENIED EXISTENCE OF GOVT AND URGED PEOPLE TO ACT ACCORDINGLY.

MOLAPO ASKED WHAT WAS MEANT BY THE LEGISLATIVE BRANCH HAVING NO INDEPENDENT AUTHORITY. HE DEFENDED LEGISLATURE AS BEING INDEPENDENT AS ANY, AND ASKED FOR FACTS TO JUSTIFY CONTRARY CONCLUSION. LEROTHOLI PRESENTED AMBASSADOR WITH COPY OF "LESOTHO ORDER 1973" CREATING "INTERIM NATIONAL ASSEMBLY". LIMITED OFFICIAL USE

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LEROTHOLI REGRETTED H.R. STATEMENT CAST DOUBT ON INTERIM ASSEMBLY WHICH HAS ALL THE FORMS OF ANY PARLIAMENT INCLUDING PRESENCE OF OPPOSITION MEMBERS. IN 1970 THE GOVT HAD FACED "A CIVIL WAR SITUATION" WHICH HAPPILY WAS SHORT-LIVED DUE TO STRONG GOVT FORCES. THE INTERIM ASSEMBLY WAS CREATED IN 1973 TO DEAL WITH PROBLEMS OF NATIONAL RECONCILIATION.

MOLAPO NEXT TOOK EXCEPTION TO PHRASE "THE FIRST (ELECTION) SINCE INDEPENDENCE" WHICH, HE SAID, IMPLIED THERE COULD HAVE BEEN EARLIER ELECTIONS WHEN IN FACT THESE WERE THE FIRST CALLED FOR UNDER THE CONSTITUTION. HE SAID THE ELECTIONS WERE NULLIFIED BECAUSE OF A FLOOD OF REPORTS OF IRREGULARITIES, NOT BECAUSE THE PM SENSED HE WAS FACING DEFEAT. AS TO DEATHS IN 1970, "VERY FEW PEOPLE DIED" AND POSSIBLY MORE OF THE VICTIMS WERE BNP THAN BCP. LEROTHOLI SAID THE PM SUSPENDED THE ELECTIONS IN THE FACE OF BLATANT BCP RIGGING INCLUDING BALLOT BOX SUBSTITUTION. IT WAS THE BCP THAT INITIATED VIOLENCE AGAINSTS ADHERENTS OF THE BNP. "THERE WAS CIVIL WAR IN 1970". HE MAINTAINED. MOLAPO SAID HE WOULD NOT DENY THAT A NUMBER OF PEOPLE WERE DETAINED BUT THE

PAPER ERRS IN NOT MENTIONING THAT THEY WERE RELEASED.

AS FOR THE ABORTIVE COUP OF 1974, THE MINISTER SAID THAT
BCP STALWARTSNIN A FEW VILLAGES ATTACKED AND BURNED POLICE STATIONS
AND SEIZED ARMS. POLICE REACTED BY SENDING IN REINFORCEMENTS
WHO, WHEN FIRED ON BY VILLAGERS, RETURNED FIRE KILLING A NUMBER OF
PEOPLE WHILE SUFFERING CASUALTIES THEMSELVES.

B. (1) LEGAL SITUATION - "LESOTHO LACKS BASIC LEGAL GUARANTEES
OF HUMAN RIGHTS." BOTH MOLAPO AND LEROTHOLI DISPUTED THIS POINT.
THEY ARGUED THAT THE SUPPRESSION OF THE WRITTEN CONSTITUTION AND
THE ABSENCE OF A BILL OF RIGHTS DOES NOT MEAN THAT LESOTHO HAS NO
GUARANTEE OF FUNDAMENTAL HUMAN RIGHTS. THE WESTMINSTER
CONSTITUTION INTRODUCED IN LESOTHO IN 1966 DID NOT ESTABLISH HUMAN
RIGHTS IN LESOTHO FOR THE FIRST TIME. IN FACT, SUCH CONCEPTS HAVE
BEEN EMBODIED IN TRADITIONAL LAW, ENGLISH COMMON LAW AND LEGAL
PRACTICE IN LESOTHO SINCE THE 19TH CENTURY.
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DETENTION - MOLAPO DISPUTED THE ACCURACY OF THE STATEMENT
THAT DETENTION HAD EXTENDED BEYOND 60 DAYS. HOW MANY PEOPLE HAVE
BEEN DETAINED UNDER THE DETENTION ACT AND FOR HOW LONG, HE ASKED,
IMPLYING THAT THE PAPER SHOULD HAVE INCLUDED THIS INFORMATION. IN
FACT, HE MAINTAINED, VERY FEW WERE DETAINED AND THESE NOT CAPRICIOUSLY

OR ARBITRARILY BUT FOR GOOD AND DEMONSTRABLE CAUSE.

AS TO THE 1974 INTERNAL SECURITY ACT WHICH PROTECTS POLICE AND
CIVIL SERVICE FROM SUIT OR PROSECUTION FOR ACTIONS THEY MAY HAVE
TAKEN DURING THE 1970/74 CRISES, MOLAPO SAID THIS IMMUNITY WAS
LIMITED TO TWO SPECIFIC SHORT PERIODS OF DISTURBANCES - NOT FOR ALL
TIME. AT THIS POINT MOLAPO DIVERTED FROM THE TEXT TO ADMONISH THAT
IT IS NOT THE US ROLE TO BE THE ARBITER OF THE WORLD'S CONSCIENCE.
USG, HE SAID, CANNOT CARRY OUT AN INVESTIGATION OF H.R. IN
LESOTHO.

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C. (III) OBSERVANCE OF INTERNATIONALLY RECOGNIZED HUMAN RIGHTS
INTEGRITY OF PERSON ARTICLE 5: WITH REGARD TO TORTURE, MOLAPO SAID
HE DID NOT DENY THIS HAD OCCURRED DURING THE 1970/74 CRISES BUT
THESE WERE ISOLATED CASES OF INDIVIDUAL POLICE EXCESSES AND THESE
INSTANCES DID NOT MAKE A CASE THAT TORTURE WAS GENERAL PRACTICE
OR POLICY. HOW ABOUT THE US? MOLAPO ASKED. THE POLICE THERE,
TOO, HAVE BEEN CHARGED WITH PHYSICAL ABUSE BUT THIS DOES NOT MEAN
THAT THERE ARE NO FUNDAMENTAL HUMAN RIGHTS IN THE US NOR THAT
TORTURE IS AN ACCEPTED AND GENERAL PRACTICE. LEROTHOLI ADDED
THAT BOTH SIDES IN LESOTHO HAD BEEN GUILTY OF USING TORTURE ON
OPPONENTS BUT THE GOVERNMENT'S ACTION, THOUGH FIRM, WAS GENERALLY
RESTRAINED.

ARTICLE 9: MOLAPO SAID THE POINT TO NOTE HERE WAS THAT SEN-
TENCES WERE MILD (3 TO 5 YEARS). THERE WERE NO DEATH SENTENCES
FOR TREASON, SEDITION, ETC. MOLAPO WAS PLEASED TO NOTE THE DETAIL
GIVEN TO THIS POINT, ESPECIALLY THE FACT THAT THE APPEALS COURT
LATER SET ASIDE FOUR SENTENCES AND REDUCED THREE. MOLAPO SAID,
ALTHOUGH DEFENSE LAWYER ON THE CASES LABELED TRIALS A FARCE AT
THE START, HE AGREED AT THE CONCLUSION THAT THOSE CHARGED RECEIVED
A FAIR TRIAL. THE (S.A.2 RAND DAILY MAIL HAD CALLED THE COURT'S
JUDGMENT "A JUDGMENT FOR AFRICA", HE SAID.

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ARTICLES 10 AND 11: MOLAPO OBJECTED STRENUOUSLY TO THE USE
OF THE WORD "GENERALLY" IN BOTH COMMENTS, CHARGING THAT A FAIR
HEARING AND A FAIR TRIAL ARE NOT "GENERALLY OBSERVED", BUT SPECIFI-
CALLY AND CONSISTENTLY OBSERVED WHEN A PERSON IS CHARGED. HE
SAID LESOTHO MAY NOT HAVE BILL OF RIGHTS BUT BASOTHO DO RESPECT
HUMAN RIGHTS.

OTHER IMPORTANT FREEDOMS: MOLAPO POINTED OUT THE LESOTHO
ENGLISH INFORMATION MEDIA ARE GOVERNMENT CONTROLLED AND NOT
MERELY "SUBJECT TO GOVERNMENT INFLUENCE". THE SESOTHO LANGUAGE
CHURCH-CONTROLLED PRESS, ON THE OTHER HAND, IS INDEPENDENT AND
SHOWS NO EVIDENCE OF GOVERNMENT INFLUENCE.

4. LEROTHOLI SUMMARIZED BY SAYING GOL FACED OUTBREAKS OF TURMOIL IN 1970 AND 1974 AND HANDLED IT AS BEST IT COULD. MISTAKES WERE MADE BUT MEASURES WERE JUSTIFIED AND LESOTHO DOES NOT APOLOGIZE FOR IT. THE BASIC AIM SINCE THE RESTORATION OF ORDER HAS BEEN RECONCILIATION, WHICH IS REVEALED IN THE RECORD. LEROTHOLI PROVIDED AMBASSADOR WITH COPIES OF THE COURT OF APPEAL AND HIGH COURT ORDER 1970, KING'S AND PM'S SPEECHES OPENING PARLIAMENT IN 1973. END UNCLASSIFIED.

5. BEGIN LIMITED OFFICIAL USE:

AMBASSADOR AND DCM INTERVENED AT SEVERAL POINTS TO QUESTION THE INTERPRETATION BEING PUT ON TEXT OF REPORT AND TO EXPLAIN THE GENESIS OF THE REPORT. FOR THE MOST PART, HOWEVER, WE LISTENED AND NOTED COMMENTS. THE HEATED ATMOSPHERE DID NOT LEND ITSELF TO A RATIONAL EXCHANGE OF IDEAS. AMBASSADOR EXPLAINED TO MOLAPO AND LEROTHOLI THAT LESOTHO WAS NOT BEING SINGLED OUT FOR CRITICISM BUT THAT COMMENTARIES ON HUMAN RIGHTS WERE PREPARED ON MANY POTENTIAL AID RECIPIENTS AT REQUEST OF CONGRESS FOR USE IN CONJUNCTION WITH CONSIDERATION OF FY 78 AID LEGISLATION.

A. THE TEXT OF THE H.R. PAPER IS NOT WITHOUT FAULT. CLOSER READING REVEALS A PREVAILING ACCUSATORY TONE AND ONLY MINIMAL LIMITED OFFICIAL USE

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ACKNOWLEDGEMENT OF THE REAL IMPROVEMENTS IN LESOTHO'S HUMAN RIGHTS SITUATION SINCE THE TROUBLES OF 1974. SPECIFIC DELETIONS AND CHANGES SHOULD BE MADE AS FOLLOWS: (1); DELETE SECOND SENTENCE OF PARAGRAPH ONE "POLITICAL SITUATION" AND SUBSTITUTE QUOTE THE CONSTITUTION PROVIDED FOR AN ELECTED PARLIAMENT (WITH ELECTIONS TO BE HELD EVERY FIVE YEARS) AND AN INDEPENDENT JUDICIARY. NO BILL OF RIGHTS WAS INCLUDED. THE BASUTOLAND NATIONAL PARTY (BNP) WON THE ELECTIONS IN 1966 AND HEADED THE GOVERNMENT. THE OPPOSITION BASUTOLAND CONGRESS PARTY (BCP) HELD A SUBSTANTIAL MINORITY POSITION IN PARLIAMENT. BITTER POLITICAL CONTROVERSY BETWEEN THE BNP AND THE BCP PREVAILED FROM THE START. UNQUOTE. (2) INSERT IN THE SECOND PARAGRAPH AFTER QUOTE LEABUA JONATHAN UNQUOTE

THE WORDS QUOTE CHARGING WIDESPREAD ELECTION IRREGULARITIES UNQUOTE. (3) IN THIRD PARAGRAPH DELETE THE WORDS QUOTE THE FIRST SINCE INDEPENDENCE UNQUOTE. (4) DELETE THE WORD "GENERALLY" FROM ARTICLES 10 AND 11 AND DELETE UNDER III B - OTHER IMPORTANT FREEDOMS - THE WORDS QUOTE TO A CERTAIN DEGREE UNQUOTE. (5) THE LAST SENTENCE OF THIS SECTION SHOULD BE AMENDED TO READ QUOTE THE RADIO AND SOME PRINTED MEDIA ARE GOVERNMENT CONTROLLED. THERE ARE NON-GOVT SESOTHO LANGUAGE NEWSPAPERS, HOWEVER, THAT SHOW NO EVIDENCE OF TOEING A GOVERNMENT LINE EVEN ON SENSITIVE POLITICAL MATTERS UNQUOTE.

B. EMBASSY HAS HEARD THAT THE PAPER HAS PROMPTED CONSIDERATION IN GOL OF REPEAL OF DETENTION ACT BUT THIS MAY BE UNREALISTIC EXPECTATION. DEPARTING (AUSTRALIAN) SOLICITOR GENERAL TOLD AMBASSADOR HE HAD BEEN ASKED TO COMMENT ON THIS IDEA AND HAD RECOMMENDED AGAINST REPEAL OF DETENTION ACT AT THIS TIME ALTHOUGH HE HAD ADVISED THE ACT COULD BE SOFTENED IN VARIOUS WAYS.

6. COMMENT(IT IS QUITE CERTAIN THAT PRIME MINISTER WAS SERIOUSLY OFFENDED BY THE CONTENTS OF THE H. R. PAPER ON LESOTHO. HE MAY WELL BE CONCERNED IN PART OVER THE POSSIBILITY THAT THE TEXT OF THE PAPER WILL BE AIRED IN THE S.A. PRESS TO HIS EMBARRASSMENT. IT IS REGRETTABLE THAT THIS FRIENDLY COUNTRY HAS BEEN EXPOSED TO LIMITED OFFICIAL USE

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PUBLIC CRITICISM IN THIS FASHION BY VIRTUE OF ITS STATUS AS AN AID RECIPIENT WHEREAS ITS SOUTH AFRICAN NEIGHBOR, WITH ALL ITS GLARING OFFENSES AGAINST HUMAN RIGHTS, ESCAPES THIS SAME CRITICISM AS A NON- RECIPIENT. WE BELIEVE THAT GOL'S EXPECTATIONS OF SUBSTANTIAL US ASSISTANCE WILL EVENTUALLY OUTWEIGH THE PRESENT RESENTMENT OVER THE H.R. REPORT. BUT THE GOL HAS BEEN IN A BUOYANT AND TOUGH MINDED MOOD SINCE IT GAINED UNANIMOUS SUPPORT IN THE UNSC IN DECEMBER AND IT IS TOO EARLY TO JUDGE HOW LONG THE CHILL MAY REMAIN IN GOL RELATIONS WITH THE EMBASSY. OUR PRESENT CONCERN IS THAT OUR ACCESS TO THE PM AND THE CABINET LEVEL MAY BE TEMPORARILY CURTAILED.

7. DEPARTMENT MAY WISH TO PASS ALL OR PART OF THIS MESSAGE TO CONGRESS. END LIMITED OFFICIAL USE.
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Message Attributes

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